



California Fair Political Practices Commission

February 14, 1986

Assemblyman Gilbert W. Ferguson
State Capitol Building
Sacramento, Ca 95814

Re: FPPC No. A-86-044

Dear Assemblyman Ferguson:

This is in reply to your letter dated February 4, 1986, in which you asked if the Free Market Political Action Committee (FREEPAC) is a "controlled committee."

Gov. Code Section 82016 defines a "controlled committee" as:

...a committee which is controlled directly or indirectly by a candidate or state measure proponent or which acts jointly with a candidate, controlled committee or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he, his agent or any other committee he controls has a significant influence on the actions or decisions of the committee.

You did not indicate in your letter whether you or the other elected officeholders who are on the committee's Board of Directors engage in the type of activity which would meet the above definition of "control."

However, a candidate or an elected officeholder who is a voting member of a committee's board of directors is presumed to be a "controlling candidate," since the candidate or officeholder probably exercises "significant influence on the actions or decisions of the committee." Therefore, in the absence of information to the contrary, our opinion is that the Free Market Political Action Committee is "controlled" by the elected officeholders who are on its Board of Directors.

Enclosed is a copy of FPPC regulation 2 Cal. Adm. Code Section 18430, which sets out the requirements for identification of the controlling candidates on the committee's Statement of Organization, and the requirements for verification of the committee's campaign statements.

Assemblyman Gilbert W. Ferguson
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With regard to the mass mailing identification requirements of Gov. Code Section 84305, the requirement that a controlling candidate be identified as the "sender" of a committee's mass mailings normally does not apply to a "general purpose committee" such as the Free Market Political Action Committee. The Free Market Political Action Committee should be identified as the "sender" of the committee's membership and fundraising mailings.

If, however, the committee sends a mass mailing which supports a candidate, and the mailing is "at the behest of" the candidate endorsed, then the candidate must be identified as the "sender" of the mailing. If this should occur, please contact me and we can discuss the requirements for identification of the sender on the mass mailing.

In your letter dated February 4, 1986, you referred to a proposed legislative change to the Political Reform Act affecting Gov. Code Section 84102.5. Currently, there is no Gov. Code Section 84102.5, and I am not aware of any proposed legislative amendment which would add Gov. Code Section 84102.5.

I hope this adequately responds to your questions. Please contact me at your convenience if you have any further questions.

Sincerely,


Jeanne Pritchard
Division Chief
Technical Assistance
and Analysis Division

JP:kt
Enclosure

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Assembly California Legislature



COMMITTEES
VICE CHAIRMAN
HOUSING AND
COMMUNITY DEVELOPMENT
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TRANSPORTATION
HEALTH
HUMAN SERVICES

GILBERT W. FERGUSON
ASSEMBLYMAN, SEVENTIETH DISTRICT

Gil Ferguson
TO: FAIR POLITICAL PRACTICES COMMITTEE
FROM: Assemblyman Gil Ferguson
DATE: February 4, 1986
SUBJECT: Applicability of FPPC law, determination of
ENCLOSURE: FREEPAC Stationary

I have been elected Chairman of the Free Market Political Action Committee (FREEPAC). There are other Assemblymen and State Senators on FREEPAC's Board of Directors, as you can see by the enclosed list.

Recently, AB 3435 and a new section of the FPPC, (2Cal. Adm. Sec. 18430), has been brought to my attention as applicable to FREEPAC, the other Legislators and me. I have also been advised that there is proposed FPPC legislation (amending Government Code Section 84102.5) which also deals with the subject of the reporting requirements of "Controlled Committees".

I have received conflicting advice as to applicability. Please advise me, considering that FREEPAC does not advocate, lobby or support issues, whether or not FREEPAC and thus the legislative members on its board should or should not be guided by the above referenced legislation and government codes.

Should we be identified and operate as a "Controlled Committee"?

18430. Committees Controlled by More than One Candidate

(a) If a committee other than a legislative caucus committee is controlled by more than one candidate:

(1) The name of each controlling candidate must be listed on the statement of organization;

(2) The name of each controlling candidate must be listed on the cover sheet of every campaign statement filed by the committee;

(3) Each controlling candidate must list the name of the committee, indicating that it is a controlled committee of that candidate, on the cover sheet of every campaign statement filed by the candidate.

(4) The campaign statements of the controlled committee cannot be combined or consolidated with the campaign statements of any controlling candidate.

(b) If a committee other than a legislative caucus committee is controlled by more than one candidate, all campaign statements filed by the committee shall be signed and verified by:

(1) All the controlling candidates in the case of a committee controlled by two or three candidates;

(2) One of the controlling candidates, on behalf of all the controlling candidates, in the case of a committee controlled by more than three candidates.

FREEMAC

FREE MARKET POLITICAL ACTION COMMITTEE

106 K Street, Suite 200
Old Sacramento, CA. 95814
Telephone (916) 447-8081

FOUNDER

Senator H.L. Richardson

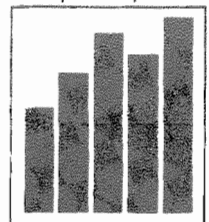
EXECUTIVE BOARD

Assemblyman Bill Baker
Chairman
Assemblyman Pat Nolan
Vice-Chairman
Assemblyman Dennis Brown
Senator John Doolittle
Assemblyman John Lewis
Senator Ed Royce
John H. Hodgson, II
Committee Treasurer
James Grubbs
Executive Director

ADVISORY COMMITTEE

(Partial List)

Senator William Craven
Senator Ed Davis
Assemblywoman Doris Allen
Assemblyman Charles Bader
Assemblyman Nolan Frizzelle
Assemblyman Wally Herger
Assemblyman Frank Hill
Assemblyman Ross Johnson
Assemblyman Bill Jones
Assemblyman Ernest Konnyu
Assemblyman Tom McClintock
Assemblyman Richard Mountjoy
Assemblyman Robert Naylor
Assemblyman Don Rogers
Assemblyman Eric Seastrand
Assemblywoman Cathie Wright
Assemblyman Phillip Wyman
Ken Adamson
Capitol Coors
William Ahmanson
Home Savings & Loan
Frank Azvedo
Four Star Electric
Ron Birtcher
Birtcher Pacific
John Blasier
Monitor Products
Thomas H. Coleman
H. Walter Croskey
Martin, Barker & Croskey
Paul DeNio
Beer Wholesalers
Robert T. Dofflemeyer
Dofflemeyer Corp.
Edmond G. Ducommun
Ducommun Incorporated
Carl E. Frahm
Reid Valve Company, Inc.
John Goodman
Automotive Service Councils
Bill Huston
Watson Lend Company
Morton B. Jackson
Macdonald, Halsted & Laybourne
Wayne McNulty
Crown Heating & A.C., Inc.
Donald E. Rowson
Industrial Hydrocarbons Inc.
J.L. Scritsmier
Environmental Lighting for
Architecture Inc.
Blain Sites
Mask-Off Company
R. Terry Toft
Coldwell Banker
Don Watt
Watt Industries, Inc.
Robert Young
The Spink Corporation





California Fair Political Practices Commission

February 7, 1986

Gil Ferguson
Assemblyman, Seventieth District
State Capitol
Sacramento, CA 95814

Re: 86-044

Dear Assemblyman Ferguson:

Your letter requesting advice under the Political Reform Act has been received by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact the Technical Assistance and Analysis Division at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

A handwritten signature in cursive script that reads "Jeanne Pritchard".

Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:plh